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# 2018

## Instructions for Form 461



Department of the Treasury  
Internal Revenue Service

### Limitation on Business Losses

Section references are to the Internal Revenue Code unless otherwise noted.

## General Instructions

### Future Developments

For the latest information about developments related to Form 461 and its instructions, such as legislation enacted after they were published, go to [IRS.gov/Form461](http://IRS.gov/Form461).

### Purpose of Form

The Tax Cuts and Jobs Act limited the amount of losses from the trades or businesses of noncorporate taxpayers that the taxpayers can claim each year. Taxpayers cannot deduct an excess business loss (see [Definitions](#) below) in the current year. However, the excess business loss is treated as a net operating loss (NOL) carryover. See [Pub. 536, Net Operating Losses \(NOLs\) for Individuals, Estates, and Trusts](#), for more information on NOL carryovers. Use Form 461 to figure the excess business loss. See [Who Must File](#) and the instructions for [Line 16](#) to find where to report the excess business loss on your return.

### Who Must File

File Form 461 if you are a noncorporate taxpayer and your net losses from all of your trades or businesses are more than \$250,000 (\$500,000 for married taxpayers filing a joint return). See [Definitions](#) below. Attach Form 461 to the applicable tax return you file.

- Form 1040, U.S. Individual Income Tax Return.
- Form 1040NR, U.S. Nonresident Alien Income Tax Return.
- Form 1041, U.S. Income Tax Return for Estates and Trusts.
- Form 1041-QFT, U.S. Income Tax Return for Qualified Funeral Trusts.
- Form 1041-N, U.S. Income Tax Return for Electing Alaska Native Settlement Trusts.
- Form 990-T, Exempt Organization Business Income Tax Return (and proxy tax under section 6033(e)).

## Definitions

**Excess business loss.** An excess business loss is the amount by which the total deductions from your trades or businesses are more than your total gross income or gains from your trades or businesses, plus the threshold amount.

**Threshold amount.** For 2018, the threshold amount is \$250,000 (\$500,000 for married taxpayers filing a joint return). These amounts are indexed for inflation.

**Trade or business.** An activity qualifies as a trade or business if your primary purpose for engaging in the activity is for income or profit and you are involved in the activity with continuity and regularity. The facts and circumstances of each case determine if an activity is a trade or business. The regularity of activities and transactions and the production of income are important elements. You do not need to actually make a profit to be in a trade or business as long as you have a profit motive. However, you do need to make ongoing efforts to further the interests of your business.

## Ordering Rules

First apply the at-risk rules; next, apply the passive activity loss rules; and then apply the excess business loss rules. See the [Instructions for Form 6198, At-Risk Limitations](#). Also, see [Pub. 925, Passive Activity and At-Risk Rules](#).

**Farming losses.** Taxpayers with losses from a farming business must apply the excess business loss limitation before carrying any net operating losses back 2 years. See the [Instructions for Form 1045, Application for Tentative Refund](#).

**Farming and nonfarming losses.** If you incur both farming and nonfarming business losses that are more than the threshold amount (see [Definitions](#) above), you must allocate the threshold amount first to the farming losses to the extent you have an NOL.

## Transition Rules

If you had losses or deductions that were limited under other provisions of

the Internal Revenue Code in prior tax years, including, for example, excess farm losses that were subject to section 461(j) in 2017, those losses or deductions are included in figuring the amount, if any, of your excess business loss in 2018.

## Additional Information

See the following publications for more information about the items in these instructions.

- Pub. 225, Farmer's Tax Guide.
- Pub. 536, Net Operating Losses (NOLs) for Individuals, Estates, and Trusts.
- Pub. 925, Passive Activity and At-Risk Rules.

## Specific Instructions

**Joint returns.** Complete one Form 461 containing all the information for both spouses.

**Amended returns.** Attach Form 461 to any applicable amended returns.

## Part I—Total Income/ Loss Items

Use Part I to report all the income and losses reflected on your applicable tax return. If you are filing a return other than Form 1040, see the instructions below for the specific line that is an equivalent to the line on Form 1040. If the line instructions do not reference a form listed under [Who Must File](#), then it is not applicable.

### Line 1

Enter any wages, salaries, and tips reported on line 1, Form 1040 or line 8, Form 1040NR.

### Line 2

Enter any business income or loss reported on line 12, Schedule 1 (Form 1040); line 13, Form 1040NR; or line 3, Form 1041.

### Line 3

Enter any capital gains or losses reported on line 13, Schedule 1 (Form 1040); line 14, Form 1040NR; line 4, Form 1041; line 3, Form 1041-QFT; line 3, Form 1041-N; or line 4, Form 990-T.

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#### Line 4

Enter any other gains or losses reported on line 14, Schedule 1 (Form 1040); line 15, Form 1040NR; line 7, Form 1041; line 4, Form 1041-QFT; line 4, Form 1041-N; or line 4, Form 990-T.

#### Line 5

Enter any supplemental income or loss reported on a Schedule E, such as income from rental real estate, royalties, partnerships, S corporations, estates, trusts, REMICs, etc. This is reported on line 17, Schedule 1 (Form 1040); line 18, Form 1040NR; line 5, Form 1041; line 4, Form 1041-QFT; line 4, Form 1041-N; or line 8, Form 990-T.

#### Line 6

Enter any farm income or loss reported on line 18, Schedule 1 (Form 1040); line 19, Form 1040NR; line 6, Form 1041; line 4, Form 1041-QFT; line 4, Form 1041-N; or line 12, Form 990-T.

#### Line 7

Enter any unemployment compensation reported on line 19, Schedule 1 (Form 1040) or line 20, Form 1040NR.

#### Line 8

Enter any other trade or business income, gain, or loss not reported on lines 1 through 7 that you reported on your tax return.

#### Line 9

Combine all the entries from lines 1 through 8 on line 9. The resulting figure can be a positive or negative number.

### Part II—Adjustment for Amounts not Attributable to Trade or Business

Use Part II to report the income, gain, or loss from your tax return that are not from a trade or business. The information will then be used to figure the excess business loss. See [Definitions](#) above.

#### Line 10

Enter the combined amount of income or gain you reported on lines 1 through 8 above that is not from a trade or business. See [Definitions](#). If you filed a tax return other than a Form 1040, see the specific line references for the tax return in the specific line instructions in [Part I](#).

#### Line 11

Enter the combined amount of losses or deductions you reported on lines 1 through 8 above that is not from a trade or business. See the definition of a [trade](#)

or [business](#) above. If you filed a tax return other than a Form 1040, see the specific line references for the tax return in the specific line instructions in [Part I](#).



*Although losses and deductions are usually entered as negative figures on other forms or worksheets, enter them as a positive figure on this line.*

**Note.** For amounts reported on Schedule D, if line 3 is a loss limited to (\$3,000), determine the amount of the loss not from a trade or business as follows:

- If the loss from your trade or business is less than (\$3,000), enter the difference between (\$3,000) and your trade or business loss.
- Do not enter any loss amount on this line from Schedule D if the loss from your trade or business is equal to or greater than (\$3,000).

#### Line 12

Subtract line 11 from line 10. The resulting figure is your gain or loss that is not from a trade or business. Use this amount in [Part III](#) to figure your excess business loss. See [Definitions](#).

### Part III—Limitation on Losses

Use Part III to apply the threshold limitation and figure the excess business loss. See [Definitions](#).

#### Line 14

Add lines 9 and 13. The resulting figure can be a positive or negative number.

#### Line 16

If the resulting figure on this line is a negative amount, then it is your excess business loss. See [Definitions](#). Although it is a loss, you will report the excess business loss adjustment as a positive number on the “Other Income” line on your tax return and enter “ELA” on the dotted line. The “Other Income” lines are located on the following lines based on the type of tax return.

- Schedule 1 (Form 1040), line 21.
- Form 1040NR, line 21.
- Form 1041, line 8.
- Form 1041-QFT, Part II, line 4.
- Form 1041-N, Part II, line 4.
- Form 990-T, Part I, line 12 (applicable to trusts only).



You will need to keep a record of your excess business loss from each tax year since it is treated as a net operating loss (NOL) carryover. See [Pub. 536, Net Operating Losses \(NOLs\) for Individuals, Estates,](#)

and [Trusts](#), for more information on NOL carryovers and reporting NOLs on future tax year returns.

#### Privacy Act and Paperwork Reduction Act Notice.

We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need this information to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax. Our legal right to ask for the information requested on this form is sections 6001, 6011, 6012(a), and 6109 and their regulations. If you do not provide this information, or you provide incomplete or false information, you may be subject to penalties.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103. However, we may give this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. commonwealths and possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual and business taxpayers filing this form is approved under OMB control number 1545-0123 and is included in the estimates shown in the instructions for their business income tax return. The estimated burden for all other taxpayers who file this form is shown below.

Average Hours Per Response		
Recordkeeping . . . . .	0.0	0.0
Learning . . . . .	0.0	0.0
Preparing . . . . .	0.38	0 hrs and 22 minutes
Sending . . . . .	0.0	0.0

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If you have suggestions for making this form simpler, we would be happy to

hear from you. See the instructions for your income tax return.

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